

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO.425 OF 2002  
IN  
SUM.SUIT NO.1846 OF 1994

Ramji Nagji Shah .. Plaintiff  
V/s  
Shashikala Machhindranath Kadam .. Defendant  
Ms.Trupti Rangnekar i/by D.S.Sakhalkar for Plaintiff.

CORAM: S.C.DHARMADHIKARI, J.

DATE : 14.06.2005.

P.C.:

1. This Summons for Judgment is taken out rather belatedly in Summary Suit filed in the year 1991. The learned Counsel appearing for the Plaintiff points out that an order was passed by Justice Karnik on the Summons for Judgment directing the office to impound the Mortgage Deed. However, she submits that the Mortgage Deed has now been stamped in accordance with law and therefore it is admissible in evidence. That apart, she submits that the summary suit is based on dishonoured cheques. The cause of action in the plaint is on the basis that even after security is given up, the liability being admitted and cheques being forwarded for the amount of loan, the said cheques have been dishonoured on presentation. The suit is maintainable as a summary suit.

2. The learned Counsel for the Plaintiff submits that on appearance being entered, the present Summons for Judgment was taken out as early as on 4th May, 2002. The same was duly served on the Advocate for the

Defendant and he has acknowledged the receipt of the Summons for Judgment and the affidavit in support thereof. The affidavit proving service and annexing acknowledgement thereof is already taken on record on 18th June, 2003 by this Court. The same is marked as "X" for identification. The original cheques and other original documents are compiled. The same are taken on record and marked as "X-1" for identification.

3. In the light of the fact that the Defendant has not taken any steps to file any affidavit nor has he applied for leave to defend, there shall be a decree in favour of the Plaintiff and against the Defendant as prayed for. However, the further interest from the date of filing of the suit till payment and/or realisation would be at the rate of 12% p.a. Refund of Court fees and the computation of Advocate's costs as per the rules. Issuance of certified copy of the decree is expedited.

**(S.C.DHARMADHIKARI J.)**